
**STATE OF INDIANA – COUNTY OF MARION
IN THE MARION CIRCUIT COURT**

**Notice of Proposed Local Rule Amendment and Finding Good Cause to
Deviate From Established Schedule**

April 5, 2016

The judge of the Marion Circuit Court under Trial Rule 81 (B) hereby gives notice of amendments to the local court rules on Small Claims at **LR49-SC00-502/Attorney Fees**, and finds good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). New language is indicated by underlining.

Notice will be given to the public by posting on the Indiana Judicial website, on the Marion County Clerk's website, and by furnishing a copy to the officers of the Indianapolis Bar Association. **Public commenting** will begin on **April 6, 2016**, and will close on **May 31, 2016**. The proposed amended rules will be adopted, modified or rejected before June 30, 2016.

The Judge of the Marion County Circuit also intends to hold a public hearing on the proposed amended local court rule, which will be announced separately.

Comments may be made in writing and mailed, or e-mailed, to:
Diane Stamatkin, Office Manager/Court Reporter for Marion Circuit Court
Attn: Public Comment on Local Rule Amendments
City-County Building, W506
200 E. Washington St.
Indianapolis, Indiana 46204
E-mail: diane.stamatkin@indy.gov

A paper copy of the proposed amended local rule will be made available for viewing, during regular business hours, in the office of the:

Clerk of Marion County
City-County Building, W122
200 E. Washington St.
Indianapolis, Indiana 46204

The amended rule will be **effective** on **July 01, 2016**.

Sheryl L. Lynch, Judge
Marion County Circuit Court

Date

LR 49-SC00-502

A. Attorney's fees shall not be awarded unless such fees are authorized by law or contract. The party seeking attorney's fees shall support its request with evidence of the legal authority for the fees, the number of hours reasonably spent on the case, the hourly rate for those persons providing legal and/or paralegal services and any other fact relevant to the reasonableness of the requested fee. The parties may present evidence in the form of a sworn affidavit. Attorney fees may only be claimed for services provided for a particular case, provided that in those instances, when time spent on more than one case can be reasonably apportioned among the cases, such apportioned time may be compensated.

B. In determining the amount of the fee, the Court shall consider:

1. time reasonably and actually expended on the case up to the date the request is heard or decided;
2. factors enumerated at Rule 1.5 of the Indiana Rules of Professional Conduct; and
3. the amount of the fee in relation to the amount of damages sought; and
4. any other circumstances bearing on the "reasonableness" of the fee.

C. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$1.00 and \$499.99 shall be \$300.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$500.00 and \$999.99 shall be \$400.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$1,000.00 and \$3,499.99 shall be \$450.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$3,500.00 and \$5,999.99 shall be \$550.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$6,000.00 and \$8,000.00 shall be \$650.00.

D. There shall be a rebuttable presumption that prosecution of an eviction proceeding in a small claims court requires 2.5 hours of time and service and that a reasonable attorney fee for this time and service is \$500.00. This fee shall be inclusive of time and service incurred to recover compensation for damages and unpaid rent.

E. A party seeking attorney fees is not limited to the presumptive attorney fee and may request fees in excess of the presumptive fee by submitting an attorney fee affidavit in compliance with section A above. A party who opposes a presumptive attorney fee may require itemization of time and service as required by section A above. A party who seeks a presumptive attorney fee under section C or D shall not be required to itemize time and service unless the request is challenged by the other party.

F. The Marion County Small Claims Judges shall review this rule every four years to determine whether or not the presumptive fees should be adjusted due to economic changes.